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TAGS: [EFIN](#) [EREL](#) [ETRD](#) [PGOV](#) [PREL](#) [XH](#) [UP](#)
SUBJECT: IMF SET TO APPROVE UKRAINE PACKAGE, DESPITE
UNRESOLVED TECHNICALITIES

REF: KYIV 2191

Classified By: ECONOMIC COUNSELOR EDWARD KASKA, REASONS 1.4(B) AND (D)

¶1. (C) Summary. The IMF and the government of Ukraine (GOU) "have agreement" on the provisions of a \$16.5 billion stand-by package. The IMF's Kyiv-based resident representative is "relatively positive" Ukraine's anti-crisis legislation will pass muster for the IMF Executive Board, when it considers the Request for Stand-By Arrangement on November 5. Nonetheless, some elements of Ukraine's anti-crisis law do not strictly adhere to IMF recommendations, and "prior actions" must still be worked out with the GOU, specifically on the fate of Prominvest Bank and technical mechanisms for bank resolution. End Summary.

President Signs Anti-Crisis Legislation

¶2. (C) Late on November 3, President Yushchenko signed into law an anti-crisis package that had been passed by the Rada on October 31 (reftel). The law contains nearly all of the 165 amendments tagged onto an original bill that had passed a first reading. One politically charged add-on -- funding for snap parliamentary elections -- was left out. Other amendments reflected the IMF team's desire to clarify rules, procedures, and authorities for bank recapitalization and resolution. Still others highlighted contentious internal debates on fiscal policy. Rada members removed the IMF's suggested two-year moratorium on minimum wage increases to the subsistence level, choosing instead to peg increases to the inflation rate. Even after the bill was passed and signed, the Lytvyn bloc announced the legislation had been falsified, a charge denied by Rada Speaker Yatseniuk.

¶3. (C) IMF contacts shared with us memos that reveal the Rada considered numerous revised drafts, which were then sent to the IMF team for comments and technical suggestions. In turn, the IMF team would hasten to translate the draft legislation and query its advisors (who included banking resolution experts from the World Bank and the U.S. Department of Treasury) on each draft's merits. This series of events recurred throughout the week of October 27, during which time Rada members, foreign and domestic bankers, and analysts) virtually all those with whom we spoke) were in the dark about exact tweaks proposed.

IMF Action Imminent

14. (C) According to the IMF's internal Request for Stand-By Arrangement, submitted by its European Department to the Executive Board on November 3, the approved anti-crisis legislation clears the way for the Board to conclude a package, possibly by November 5, when it begins deliberations in Washington. Once the Request for Stand-By Arrangement is approved, according to the document's proposed decision, the first tranche could be disbursed immediately.

15. (C) IMF resident representative Balazs Horvath told us on November 4 that, although the IMF is still discussing details with the GOU, the IMF and the GOU "have agreement" regarding the terms of a standby package. He requested USG support at the November 5 Executive Board meeting. Separately, Rada Speaker Yatseniuk traveled to the United States on November 4 for working meetings with IMF and World Bank officials.

16. (C) Horvath described the Rada's anti-crisis legislation as "relatively positive," insinuating that no provisions included in the legislation would be a deal breaker for the IMF Board. When asked specifically about the planned removal of the two-year moratorium on bringing the minimum wage to the subsistence level, Horvath revealed that the government's focus should be on the overarching IMF goal of fiscal discipline, regardless of the measures it takes to get there.

Ukrainian officials have gotten the message that they will need to put the brakes on growth of public sector salaries and pensions, which have grown in double-digits in recent years. Regions shadow Minister of the Economy Akimova conceded to the Ambassador that making this happen will be difficult politically, particularly if elections loom, but possible if given room to maneuver.

17. (C) Horvath told us that additional legislation is "not required," but "prior actions are needed" before the IMF Board can finalize a deal. He specifically mentioned the need to resolve the fate of Prominvest Bank, now under the NBU's provisional authority. (Note: Natalie Jaresko, managing Partner at Horizon Capital, told EconOff on November 3 that brothers Andriy and Sergiy Klyuev, industrialists and Regions MPs, had positioned themselves to buy the bank at an undisclosed price. The November 4 edition of Korrespondent, a Kyiv business magazine, confirmed this rumor based on unnamed sources. End Note.) Horvath also stated that the NBU lacked "the necessary power" to deal with bank recapitalization and resolution, and he foresaw the need for the Cabinet of Ministers to issue decrees clarifying the NBU's mandate. Horvath said the IMF is "working around the clock" and that a deal this week and IMF board action is "within the cards."

Implementing the Legislation

18. (C) After the IMF reviews the Stand-By Arrangement, perhaps even agreeing to its provisions on November 5, the most pressing issue is how the government of Ukraine will implement its legislation. Minister of Finance Penzenyk hastily called a meeting with the Ambassador late on October 31, during which he requested U.S. help kick starting investment, as well as U.S. technical assistance on banking recapitalization and resolution. During the meeting, Penzenyk stated that the National Bank of Ukraine (NBU) lacked a cadre of working level technocrats, able to provisionally administer failed banks. He pointed to the case of Prominvest Bank, where an NBU Deputy Governor has taken the reins, and he speculated that the NBU lacks resources to deploy in the event of further, and seemingly inevitable, failures. Penzenyk lamented that neither the IMF Stand-By Arrangement nor the anti-crisis legislation envisions clear roles for the Ministry of Finance or the NBU in administering failed banks and liquidating assets.

19. (C) Comment. The IMF appears to have been poised for final Rada passage and ready to consider the Stand-By Arrangement at the earliest possible date. Coming so soon after the October 31 passage and Presidential signing of the

anti-crisis legislation, it is not clear that back-and-forth discussions between the Kyiv-based IMF team and GOU officials on the draft bills negatively influenced IMF opinion in Washington. The IMF's swift consideration of the Arrangement appears to favor addressing Ukraine's sources of economic instability, rather than prolonging debate over mechanisms to satisfy conditionalities. End Comment.
TAYLOR